

1 **WO**

2  
3  
4  
5  
6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 Shaundelle Dial,

10 Petitioner,

11 v.

12 Mark Gutierrez,

13 Respondent.  
14

No. CV-24-00431-TUC-JGZ

**ORDER**

15  
16 Pending before the Court is a Report and Recommendation issued by United States  
17 Magistrate Maria S. Aguilera. (Doc. 19.) Magistrate Judge Aguilera recommends granting  
18 Respondent Mark Gutierrez’s Motion to Dismiss (Doc. 12) and denying Petitioner  
19 Shaundelle Dial’s First Amended Petition for Writ of Habeas Corpus filed pursuant to 28  
20 U.S.C. § 2241 (Doc. 6).

21 This Court “may accept, reject, or modify, in whole or in part, the findings or  
22 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). “[T]he district  
23 judge must review the magistrate judge’s findings and recommendations de novo *if*  
24 *objection is made*, but not otherwise.” *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121  
25 (9th Cir. 2003) (en banc) (emphasis in original). District courts are not required to conduct  
26 “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*,  
27 474 U.S. 140, 149 (1985). *See also* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72.

28 The parties have not filed an objection to the Report and Recommendation and the

1 time to file objections has expired. As such, the Court will not consider any objections or  
2 new evidence.

3 Upon review of the record, the Court will adopt Magistrate Judge Aguilera's  
4 recommendations. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72; *Thomas v. Arn*, 474 U.S.  
5 140, 149–54 (1985). Petitioner claims a disciplinary hearing violated his right to due  
6 process and right to be free from cruel and unusual punishment. Magistrate Judge Aguilera  
7 found “Petitioner’s claim that he was denied due process was without merit,” and that the  
8 sanctions imposed on Petitioner of “the loss of 27 days of good conduct time, 30 days of  
9 disciplinary segregation, and the 1-year loss of commissary, phone, and tablet privileges”  
10 are “not grossly disproportionate to the offense”, nor do they create “inhumane prison  
11 conditions, deprive Petitioner of basic necessities, or constitute a dramatic departure from  
12 accepted standards for conditions of confinement” in violation of the Eighth Amendment  
13 prohibition on cruel and unusual punishment. (*Id.* at 4-5 (internal citations omitted).)

14 Accordingly,

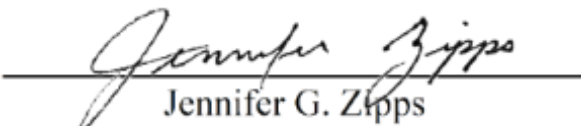
15 IT IS ORDERED that:

16 1. Magistrate Judge Aguilera’s Report and Recommendation (Doc. 19) is  
17 **ADOPTED.**

18 2. Respondent’s Motion to Dismiss Amended Petition (Doc. 12) is  
19 **GRANTED.**

20 3. Petitioner’s First Amended Petition for Writ of Habeas Corpus (Doc. 6) is  
21 **DENIED.**

22 Dated this 26th day of March, 2025.

23  
24  
25   
26 Jennifer G. Zipps  
27 Chief United States District Judge  
28